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10/542,174

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Robert Wiest

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EXAMINER

FERTIG, BRIAN E

ART UNIT

PAPER NUMBER

3694

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.		Applicant(s)	
	10/542,174		WIEST ET AL.	
	Examiner		Art Unit	
	BRIAN FERTIG		3694	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>10/1/2008</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

With respect to claims 1 and 10

Applicant's amendment to claim 1 brings into question where Applicant intends the transition from preamble to the body of the claim to occur. In particular, the amendment of 10/1/2008, introduces "comprising:" immediately preceding "shared business rules". A similar amendment was not made to claim 10. As such, it is unclear whether the transition is meant to occur at the first instance of 'comprising', the last instance, or any in between. The choice to amend claim 1 also throws ambiguity on claim 10 as to whether Applicant intends the first instance of 'comprising' or whether the claims structure is to be read in parallel with claim 1, whose amendment might indicate a shift in the intended transition point.

The ambiguity is compounded by Applicant's user of tabbing, and lack of semi-colons, and commas for clearly identifying elements to the claim and separating statements of indented use from positive claim limitations.

The Examiner respectfully suggests, elimination of all transition phrases, except for the phrase intended to signal the transition from preamble to body. Further, the

Examiner respectfully requests that the Applicant employ a consistent structure for tabbling and introduce appropriate commas and semi-colons to clearly identify separate elements of the claimed subject matter.

With respect to claims 2-9 and 11-13

These claims are rejected for incorporating the subject matter rejected above.

Claim Rejections - 35 USC § 101

3. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 1-9 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter. These claims recite a server comprised of user interfaces, modules, and various data. Absent a positive claim to a processor memory, or other similar physical structure, the broadest reasonable interpretation of these claims read on software, per se. Software, when not properly embodied (as in claims 10-13, for example), is not statutory because it is not capable of causing functional change in a computer (see MPEP § 2106.01 for further discussion). Note further that this issue is raised by Applicant's amendment which introduces modules and which appears to shift the transition from the preamble from the 'comprisng'. Note that this issue is raised by Applicant's introduction of "comprising:" immediately preceding "shared business rules". A reading of the newly introduced comprising casts doubt as to whether the claimed terminals are intended as a positive recitation or whether these are

mere recitations of a field of use for the data and programs listed after the amended
“comprising:”

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-8, and 10-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 6,141,653 to Conklin (Conklin) in view of US Patent Application Publication 2002/0046169 for Keresman (Keresman).

With respect to claim 1

Conklin teaches:

A computerized transaction server for concluding contracts between a service user and a service provider, comprising

a user interface with a number of data input modules which comprise data input fields for inputting data relating to the object of a contract, the user interface is operable for service users by way of terminals via a telecommunication network (see col 17, lines 14-34 and col 25, lines 42-59, and fig 15b, note that users interact using a standard web browser to view forms, via the Internet),

stored data rules assigned to the data input fields and validation module for checking data values input via the data input fields on the basis of the assigned data rules, and for generating a validation result, comprising:

stored business rules assigned to one or more of the data input fields (see col 19, lines 7-13, and 38-57, note that data is validated against frivolous and fraudulent inquirers based upon demographic information stored in the database),

evaluation module for evaluating the data values input via the data input fields on the basis of the assigned business rules and for generating a corresponding evaluation result, a number of different contract negotiation processes for indicating a contract price via the user interface, for requesting and receiving an agreement relating to the conclusion of a contract from the service user via the user interface, and for storing a concluded contract (see col 19, lines 38-57, note that concluded deals are stored by the system, see also col 25, lines 12-35, note that contract terms, including price, are negotiated through the negotiations engine)

control module for activating a first one of the data input modules, for activating the evaluation module in the case of a positive validation result, and for automatically selecting and activating a further one of the data input modules or one of the contract negotiation processes in dependence on the evaluation result (i.e. negotiations engine, see col 28,

lines 9-22, notes the negotiations engine performs the steps pictured in Fig 4b, upon positive validation of user name and password, the customer is presented with customization items).

Conklin does not explicitly teach:

for requesting corrections via the user interface on the basis of the assigned data rules

Keresman teaches:

for requesting corrections via the user interface on the basis of the assigned data rules (see par 52, note that corrections to the default shipping address are requested)

It would have been obvious to one of ordinary skill at the time of applicant's invention to have provided Conklin with the correction features of Keresman in order to allow users to correct default choices so that the inputs conform to the user's wishes as taught implicitly by Keresman (see par 52) since the user wishes to change the shipping address to an alternate address.

With respect to claim 2

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 1 (see rejection of claim 1 above), characterized in that the business rules in each case comprise rule logic and one or more rule parameters, that the transaction server comprises a rules database, and that the rule parameters are stored in the rules database (see Conklin col 19, lines 39-56, note that input data is validated to prevent fraudulent inquiries using

data archived by the negotiation engine, stored in the sponsor database, see Conklin col 19, lines 7-14).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 3

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 2 (see rejection of claim 2 above), characterized in that the rule logic is stored executable program code in the rules database (see Conklin col 19, lines 39-56, note that it is implicit that the rule logic is a stored executable program because the negotiation engine automatically validates the incoming data).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 4

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 1 (see rejection of claim 1 above), characterized in that the data rules and business rules are in each case assigned to one of a number of sets of rules, that the control means are adapted to select a set of rules to be applied from the sets of rules in dependence on at least one data value input into a particular data input field, and that the validation means and the evaluation means are adapted to check and to evaluate, respectively, the data values input on the basis of the data rules or business rules, respectively, of the set of rules to be applied (see Conklin col 19, lines 39-56, note that input data is validated to prevent fraudulent inquiries using data archived by the negotiation

engine, stored in the sponsor database, see Conklin col 19, lines 7-14 see also Conklin col 25, lines 12-35, note that contract terms, including price, are negotiated through the negotiations engine).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 5

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 4 (see rejection of claim 4 above), characterized in that geographic data, user identification data and/or service identification data are in each case assigned to the sets of rules, and that the control means are adapted to select the set of rules to be applied in dependence on a geographic data value (i.e. address) input or a data value for user identification input, respectively, and/or a data value for service identification input (see Conklin Fig 15 C-1, note that the letter of credit is customized to include the address of the user).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 6

Conklin teaches:

The transaction server as claimed in claim 1 (see rejection of claim 1 above), but does not explicitly teach characterized in that at least one of the contract negotiation processes is adapted to automatically calculate the contract price on the basis of data values input.

Keresman teaches:

characterized in that at least one of the contract negotiation processes is adapted to automatically calculate the contract price on the basis of data values input (see par 36, and par 54).

It would have been further obvious to one of ordinary skill in the art at the time of applicant's invention to have provided Conklin with the price validation and total price calculation features of Keresman in order to allow a customer to limit the size of valid purchase and to facilitate the completion of the transaction as taught explicitly by Keresman (see par 36 and 54)

With respect to claim 7

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 1 (see rejection of claim 1 above), characterized in that at least one of the contract negotiation processes is adapted to make the data values input electronically accessible to a responsible human representative of the service provider, to receive data inputs from the human representative and to indicate them to the service user via the user interface and to negotiate the contract price by data exchange via the user interface between the service user and the human representative (see Conklin col 18, lines 7-11 and Fig 31C, note the involvement of moderator and customer service)

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 8

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 1 (see rejection of claim 1 above), characterized in that the control means are adapted to store the data values input, the validation result generated and the evaluation result generated assigned to one another (see Conklin, col 15, lines 17-29 and Conklin col 19, lines 7-14, 39-57).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 10

Conklin in view of Keresman teaches:

A computer program product comprising a computer-readable medium with computer program code means contained therein for controlling one or more processors of a transaction server for concluding contracts between a service user and a service provider, in such a manner that the transaction server provides

a user interface with a number of data input modules which comprise data input fields for inputting data relating to the object of a contract, which user interface is operable for service users by means of terminals via a telecommunication network (see Conklin col 17, lines 14-34 and Conklin col 25, lines 42-59, and Conklin fig 15b, note that users interact using a standard web browser to view forms, via the Internet),

in that data rules are stored in the transaction server assigned to the data input fields, in that data values input via the data input fields are checked in the transaction server on the basis of the assigned data rules

(see Conklin col 19, lines 7-13, and 38-57, note that data is validated against frivolous and fraudulent inquirers based upon demographic information stored in the database),

in that the transaction server requests corrections via the user interface on the basis of the assigned data rules (see Keresman par 52, note that corrections to the default shipping address are requested),

and in that the transaction server generates a validation result (see Conklin col 19, lines 39-56, note that input data is validated to prevent fraudulent inquiries using data archived by the negotiation engine, stored in the sponsor database, see Conklin col 19, lines 7-14, also log on validation, see Conklin col 28, lines 9-12),

characterized in that the computer program product comprises further computer program code means which control the processors of the transaction server in such a manner, that business rules are stored in the transaction server assigned to one or more of the data input fields (see Conklin col 19, lines 39-56, note that input data is validated to prevent fraudulent inquiries using data archived by the negotiation engine, stored in the sponsor database, see Conklin col 19, lines 7-14),

that the transaction server activates a first one of the data input modules, that the transaction server, in the case of a positive validation result, evaluates the data values input via the data input fields on the basis of the assigned business rules and generates a corresponding evaluation

result, and that the transaction server selects and activates a further one of the data input modules or one of a number of different contract negotiation processes in dependence on the evaluation result (see Conklin col 28, lines 9-22, notes the negotiations engine performs the steps pictured in Fig 4b, upon positive validation of user name and password, the customer is presented with customization items), the contract negotiation processes being adapted to control the processors of the transaction server in such a manner that the transaction server indicates a contract price via the user interface (see Conklin col 25, lines 12-35, note that contract terms, including price, are negotiated through the negotiations engine), that the transaction server requests and receives an agreement relating to the conclusion of a contract from the service user via the user interface, and that the transaction server stores a concluded contract (see Conklin col 19, lines 46-48, note that the concluded deal is archived).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 11

Conklin in view of Keresman teaches:

The computer program product as claimed in claim 10 (see rejection of claim 10 above), characterized in that it comprises further computer program code means which control the processors of the transaction server in such a manner that the transaction server stores rule parameters contained in the business rules in a

rules database (i.e. stores demographic information used to validate transaction that are not frivolous or fraudulent, see col 19, lines 50-56).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 12

Conklin in view of Keresman teaches:

The computer program product as claimed in claim 10 (see rejection of claim 10 above), characterized in that it comprises further computer program code means which control the processors of the transaction server in such a manner that the transaction server stores a rule logic contained in the business rules as an executable program code in a rules database. (see Conklin col 19, lines 39-56, note that it is implicit that the rule logic is a stored executable program because the negotiation engine automatically validates the incoming data).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

With respect to claim 13

Conklin in view of Keresman teaches:

The computer program product as claimed in claim 10 (see rejection of claim 10 above), characterized in that it comprises further computer program code means which control the processors of the transaction server in such a manner that the transaction server in each case stores the data rules and business rules assigned to one of a number of sets of rules, that the transaction server selects from the sets of rules one set of rules to be applied in dependence on at least one data value input into a particular data input field, and that the transaction

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server checks and evaluates, respectively, the data values input on the basis of the data rules or business rules, respectively, of the set of rules to be applied (see Conklin col 19, lines 39-56, note that input data is validated to prevent fraudulent inquiries using data archived by the negotiation engine, stored in the sponsor database, see Conklin col 19, lines 7-14 see also Conklin col 25, lines 12-35, note that contract terms, including price, are negotiated through the negotiations engine).

(see rationale supporting obviousness and motivation to combine of claim 1 above)

6. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin in view of Keresman and in further view of International Publication WO 02/039358 for Hele (Hele), cited by applicant.

With respect to claim 9

Conklin in view of Keresman teaches:

The transaction server as claimed in claim 1 (see rejection of claim 1 above), but does not explicitly teach, characterized in that the transaction server is adapted to conclude reinsurance contracts between an insurance company as service user and a reinsurance company as service provider and that the data relating to the object of a contract comprise information on insurance products and sums insured

Hele teaches:

characterized in that the transaction server is adapted to conclude reinsurance contracts between an insurance company as service user and a reinsurance company as service provider and that the data relating to the object of a contract comprise information on insurance products and sums insured (see pg 1, line 30- pg 2, line 32)

It would have been obvious to one skilled in the art at the time of applicant's invention to have provided Conklin in view of Keresman with the teaching of the applicability of transaction servers to the sale of insurance via the internet in order to streamline the sales process as taught explicitly by Hele (see pg 10, line 24-25)

Response to Arguments

7. Applicant's arguments, filed 10/1/2008, with respect to Applicants invocation of treatment under 36 USC 112, sixth paragraph have been fully considered and are persuasive. The rejection of claims 1-9 has been withdrawn in favor of the rejections above, which stem from Applicant's amendments.

8. The balance of Applicant's arguments filed 10/1/2008 have been fully considered but they are not persuasive. With respect to Applicants argument that the cited references fail to suggest "evaluation module for evaluating the data values input via the data input fields on the basis of the assigned business rules and for generating a corresponding evaluation result... [and a] control module for activating a first one of the data input modules, for activating the evaluation module in the case of a positive validation result, and for automatically selecting and activating a further one of the data

input modules or one of the contract negotiation processes in dependence on the evaluation result," the Examiner respectfully disagrees. As a threshold matter, the claim elements highlighted by Applicant contain statements of intended use (i.e. ". . . module for . . ."). Such limitations do not limit the claimed invention to a particular structure, but instead merely recite an intended use. As such, the claim to the structures (i.e. evaluation module, and control module) are met by prior art teachings that are capable of performing the indented use.

9. With respect to teaching an 'evaluation module' the Examiner has cited Conklin col 19, lines 38-57, and col 25, lines 12-35, particularly. These sections fairly suggest the claimed evaluation module in so far as Conklin's invention "allows the collection and analysis of direct e-mail demographic information . . . This data helps . . . screen out frivolous and fraudulent inquiries. For example, a high school student attempting to propose an order might be intercepted when the present invention determines that no company name or title has been provided and no other authorization for such a request has been provided for." This teaching demonstrates that the software of Conlin's invention (see, at least Col 17 and fig 1, note that teaching of Conklin's invention in the form for software engines, fairly suggesting 'modules') is capable of evaluating data values (i.e. lack of company name or title) on the basis of business rules (i.e. if the company name and title are lacking, intercept proposal), and generating an evaluation result (i.e. intercept/reject high school student's offer).

10. In addition, the Examiner also respectfully directs Applicant to Fig 7, note that module 540 also reads on the claimed evaluation model. Note that it is capable of

evaluating input data values in so far as it evaluates whether the Seller accepts, it does so based on a simple business rule (i.e. accept/not accept), and generates a corresponding result in so far as the process is directed to either 545 or 550.

11. With respect to teaching a “control module”, the Examiner has cited Conklin, col 28, lines 9-22 and fig 4, and particularly identified the negotiations engine. In addition the Examiner also respectfully directs Applicant to Fig 7. Note that module suggested by this chart is capable of ‘activating one of the data input modules’ in so far as the buyer is prompted to enter information and the seller is prompted as to his acceptance. The module is also capable of activating the evaluation module (i.e. activating module 540, discussed above, note that a positive result to the payment method is required). Finally, the module is capable of automatically selecting and activating a further one of the data input modules (i.e. selecting and activating module 545) or one of the contract negotiation process (i.e. proceeding to modules 550, 560, 565) in dependence on the evaluation results (i.e. the result of module 540).

12. With respect to Applicant’s argument that the cited references fail to suggest “that the transaction server, in the case of a positive validation result, evaluates the data values input via the data input fields on the basis of the assigned business rules and generates a corresponding evaluation result, and that the transaction server selects and activates a further one of the data input modules or one of a number of different contract negotiation processes in dependence on the evaluation result,”, the Examiner respectfully disagrees.

13. Examiner has cited Conklin col 28, lines 9-22, Fig 4b, col 25, lines 12-35, and col 19, lines 46-48. In addition, the Examiner also respectfully directs Applicant to Fig 7 and the discussion above related to Fig 7. In particular, "that the transaction server (see fig 1a), in the case of a positive validation result, evaluates the data values input via the data input fields on the basis of the assigned business rules and generates a corresponding evaluation result (i.e. Fig 7, 530 and 540), and that the transaction server selects and activates a further one of the data input modules (i.e. module 545) or one of a number of different contract negotiation processes (i.e. modules 550, 560, 565) in dependence on the evaluation result (i.e. with dependence on module 540),"

Examination Note

14. The Examiner respectfully observes that while Conklin contains a number of automated business rule based decisions, sufficient to read on Applicant's current claims, it does not appear that Conklin teaches certain of the more particular automated negotiation rules taught by Applicant's Specification. In addition to the suggestions made above regarding the clarity of the claim language, the Examiner respectfully suggests that particular claim limitations directed to the particular negotiation features of Applicant's disclosed invention are likely to differentiate Applicant's claimed invention from Conklin.

Conclusion

15. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

16. A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

17. Any inquiry concerning this communication or earlier communications from the examiner should be directed to BRIAN FERTIG whose telephone number is (571)270-5131. The examiner can normally be reached on Monday - Friday 8:30am to 5:00pm EST. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on (571) 272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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18. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/B.F./

/Mary Cheung/
Primary Examiner, Art Unit 3694